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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,254	09/28/2001	Frederick Schuessler	1062	5149

7590

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EXAMINER

KOYAMA, KUMIKO C

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,254

Applicant(s)

SCHUESSLER ET AL.

Examiner

Kumiko C. Koyama

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it includes improper language such as "provided." The examiner requests the applicant to replace "provided" with "included."

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 7-9 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Tom et al (US 5,262,625).

Re claim 1: Tom discloses a bar code symbology comprising a set of symbols including characters having patterns of bars and spaces, each character spanning a distance of m module widths and being represented by n bars and p interleaved spaces, the largest single bar or space being limited to k modules in width, each symbol having a human recognizable graphic element provided among the pattern of bars and spaces, at least a portion of the graphic element being machine readable and recognizable by a decoder as a portion of a respective symbol (col 3 lines 43-48, Fig 8, col 5 lines 19-32, col 6 lines 10+, col 26 lines 60-61).

Re claim 3 and 7: Tom teaches that the graphic element is a fixed width pattern of bars and spaces and comprises three bars and three spaces (col 5 lines 30-31). If the width pattern of bars and spaces are fixed, and comprises three bars and three spaces, the ratio of bar/space combinations is fixed as well.

Re claim 8: Tom further teaches that the largest single bar or space pattern is limited to four modules in width (col 5 lines 31-32).

Re claim 9: Tom further teaches that n is equal to three and each character spans a distance of 11 modules (col 5 lines 27-32).

Re claim 12: Tom further teaches a label substrate (col 5 line 20).

Re claim 13: Tom further teaches an optical scanner 31 (col 6 lines 11-12).

Re claim 14: Tom further teaches an apparatus for generating a signal representative of information encoded in a machine-readable symbol, the apparatus comprising a scanner 31 (col 6 lines 10+), a detector (col 6 lines 33+) and a decoder (col 26 lines 22-28).

Re claim 15: Tom further teaches a method of decoding a bar code symbology that stores computer-executable instructions on a computer-readable medium comprising a scanner 31 (col 6 lines 10+) and a decoder (col 26 lines 22-28).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tom in view of Fujita et al (US 6,293,466). Tom have been discussed above.

Tom teaches that the graphic element is a fixed width pattern of bars and spaces (col 5 lines 30-31).

However, Tom fails to teach that the graphic element is with bars of different height.

Fujita teaches a barcode with different heights (Fig 2).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Fujita to the teachings of Tom because the difference in height provides a bar code containing more detailed and minute information, therefore leading to a more accurate reading and detailed description of bar coded item.

6. Claims 4-6 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tom et al.

Re claim 4: Tom fails to teach that the graphic element of Fig 8 includes an area of white space used by a decode algorithm.

However, he graphic element of Fig 2 includes an area of white spaces.

Although not specifically mentioned, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to conclude that the spaces in Fig 2 are white space because upon using an optical scanner, white spaces are in distinctive contrast with the black bars and give a clear difference in reflective light, which enhances the reading and processing of the barcode symbol.

Re claim 5: Tom also teaches that the graphic element may have a fixed width (col 5 lines 30-31).

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Re claim 6: Tom further teaches a predetermined start pattern and a predetermined stop pattern (col 5 lines 22-26).

Re claim 10 and 11: Tom fails to teach that the symbology excludes from valid patterns a pair of patterns that Code 128 uses as a stop pattern. Tom also fails to teach that the symbology excludes from valid patterns three Code 128 start patterns except for check characters adjacent the predetermined stop pattern.

However, Tom teaches other start and stop patterns as shown in Fig 9.

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to modify the start and stop patterns to patterns other than those used in Code 128 in order to provide a faster reading symbol because the unique start/stop character allows the symbol to be scanned bidirectionally.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tom as applied to claim 1 above, and further in view of Ackley (US 5,939,700).

Tom further teaches that the representation of the symbol is printed on a label (col 3 lines 34-35).

However Tom fails to teach an apparatus comprising means for producing a representation of a symbol and means for printing the representation on a substrate.

Ackley teaches a bar code symbol printing apparatus (Fig 1, col 6 lines 41-42).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Ackley to the teachings of Tom and provide a printing apparatus for producing a bar code so that items may be labeled with the bar code to uniquely identify the item.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Apitz et al., U.S. Patent No. 4,450,349, discloses a bar code with optical reading device.

Logacre, Jr., U.S. Patent No. 5,479,515, discloses one-dimensional bar code symbology and method of using the same.

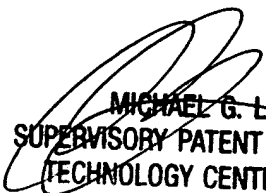
Ackley, U.S. Patent No. 5,619,027, discloses single width bar code symbology with full character set utilizing robust start/stop characters and error detection scheme.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kumiko C. Koyama whose telephone number is 703-305-5425. The examiner can normally be reached on Monday-Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

kck
January 8, 2003


MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
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